

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6728 OF 2005

Ankush Kalyan Pawar.

... Applicant.

Versus.

The State of Maharashtra.

... Respondent.

Shri Sanjeev P.Kadam for the Applicant.

Ms.Rajashree Gadhvi, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 26th October, 2005.

P.C.:

1. Heard the learned Advocate appearing for the Applicant. This is an application for bail. This application was circulated for 18th October 2005 and notice was given to the office of the Public Prosecutor on 10th October 2005. On 18th October 2005, the learned A.P.P. sought time on the ground that the Investigating Officer was not present. On 24th October 2005 again time was granted till today as the Investigating Officer was not present. Today also the Investigating Officer is not present. The learned A.P.P. brought to my notice that wireless messages were sent to the concerned Investigating Officer on 10th October, 17th October, 20th October and 25th October 2005 and the Investigating Officer has failed to appear.

2. The Applicant was arrested on 1st January 2005 in connection with the offence registered under sections

454, 457, 380 read with section 34 of the Indian Penal Code. On 18th March 2005, charge sheet has been filed. The learned Advocate for the Applicant submitted that though the Applicant was arrested on 1st January 2005, no identification parade is held and there is no recovery made at the instance of the Applicant. He therefore, submitted that the Applicant is entitled to be enlarged on bail. The learned A.P.P. pointed out that the order of the Sessions Court shows that there are 22 cases registered against the Applicant. On the last date of hearing, the learned A.P.P. sought time to produce details of the nature of crimes which are registered against the Applicant. The learned A.P.P. pointed out that the Investigating officer has not given any instructions in that regard and therefore, she is unable to produce any material.

3. I have considered the submissions. The F.I.R. was filed against unknown persons. The Applicant was arrested on 1st January 2005. There is nothing on record to show that the test identification parade was held. The failure to hold identification parade may not be fatal at the time of trial, nevertheless this is a relevant consideration for considering the application for bail when the Applicant has not been named in the F.I.R. There is nothing on record to show that there is any recovery made at the instance of the Applicant. No particulars are placed on record as regards the other

offences registered against the Applicant, though sufficient time was granted in that regard. The apprehension is that the Applicant may abscond can be taken care of by putting stringent conditions such as directing him to attend the concerned Police Station.

4. As the concerned Investigating Officer has not cooperated with the learned A.P.P., the District Superintendent of Police, Satara, will have to make inquiry into the conduct of the Investigating Officer and will have to take appropriate action.

5. Hence the following order is passed:

(i) The Applicant shall be enlarged on bail in connection with C.R.No.290 of 2004 registered with Satara City Police Station, subject to furnishing a personal bond of Rs.15,000/- with one or two local sureties in the like amount.

(ii) The bail is granted subject to condition that till conclusion of trial, the Applicant will report to the Satara City Police Station once in every fortnight.

(iii) The Bail is granted subject to condition that the Applicant shall not, directly or

indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

(v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) Application is disposed of in above terms.

(vii) The parties to act upon an authenticated copy of this order.

Judge.